

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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JOSHUA G. STEGEMANN,

Plaintiff,

v.

No. 1:15-CV-21  
(TJM/CFH)

RENSSELAER COUNTY SHERIFF'S  
OFFICE, et al.,

Defendants.

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**CHRISTIAN F. HUMMEL  
U.S. MAGISTRATE JUDGE**

**APPEARANCES:**

Joshua G. Stegemann  
20552-052  
F.C.I. Berlin  
Inmate Mail/Parcels  
P.O. Box 9000  
Berlin, New Hampshire 03570  
Plaintiff Pro Se

**REPORT-RECOMMENDATION AND ORDER**

**I. Procedural Background**

On February 20, 2015, Senior U.S. District Judge Thomas J. McAvoy adopted the February 3, 2015 Report-Recommendation and Order of the undersigned recommending that plaintiff's motion for in forma pauperis relief be granted, and that the complaint be dismissed as barred by Heck v. Humphrey, 512 U.S. 477 (1994). Dkt. Nos. 5, 7. Plaintiff appealed the decision to the Court of Appeals for the Second Circuit. Dkt. Nos. 9, 10. In a Summary Order dated May 3, 2016, the Second Circuit vacated and remanded this Court's February 20, 2015 Decision and Order. Dkt. No. 11.

The Second Circuit noted that, at the time of plaintiff's appeal of the February 20, 2015 Decision, although a jury had returned a verdict finding Stegemann guilty, a judgment of conviction had not yet been entered. Dkt. No. 11 at 4. The Court concluded that Heck was not yet applicable against Stegemann because "the Heck bar only applies where a judgment of conviction has been entered." Id. at 8. The Court further observed that, because "a sentence had not yet been imposed and a judgment of conviction not yet entered"; "it remains possible that the verdict will not ripen into a judgment of conviction." Id. at 8.

## **II. Plaintiff's Complaint**

Plaintiff was sentenced by U.S. District Judge Sharpe in his underlying criminal case on July 20, 2016 and judgment has now been entered against him. See United States v. Stegemann, No. 13-CR-357 (GLS), Dkt. Nos. 208, 212. Accordingly, as plaintiff has now been sentenced, and judgment has now been entered, the Heck bar applies, requiring dismissal of this action. See Heck, 512 U.S. at 486-87; see also Dkt. No. 11 at 8-9.

Accordingly, it is recommended that the matter be dismissed as barred by Heck v. Humphery, 512 U.S. 477 (1994).

## **III. Conclusion**

**WHEREFORE**, it is hereby

**RECOMMENDED**, that pursuant to the Court's review under 28 U.S.C. § 1915,

Stegemann's complaint be dismissed as barred by Heck v. Humphrey, 513 U.S. 477, 486-87 (1994); and it is further

**RECOMMENDED**, that plaintiff's letter motion requesting appointment of counsel and service of summonses, Dkt. No. 12, be **DENIED as moot**; and it is

**ORDERED**, that the Clerk of the Court serve a copy of this Report-Recommendation and Order on the parties in accordance with Local Rules.

**ORDERED**, that the Clerk of the Court serve the plaintiff pro se a copy of this Report-Recommendation and Order in accordance with Local Rules.

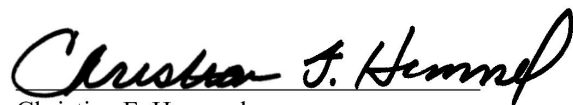
Pursuant to 28 U.S.C. § 636(b)(1), parties may lodge written objections to the foregoing report. Such objections shall be filed with the Clerk of the Court "within fourteen (14) days after being served with a copy of the . . . recommendation."

N.Y.N.D. L.R. 72.1(c) (citing 28 U.S.C. §636(b)(1)(B)-(C)). **FAILURE TO OBJECT TO THIS REPORT WITHIN FOURTEEN DAYS WILL PRECLUDE APPELLATE REVIEW.**

Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Small v. Sec'y of HHS, 892 F.2d 15 (2d Cir. 1989); 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72, 6(a), 6(e).

**IT IS SO ORDERED.**

Dated: October 3, 2016  
Albany, New York



Christian F. Hummel  
U.S. Magistrate Judge